In the High Court of Uttaranchal, at

Nainital.

Criminal Misc. Application No. 386/2006
(Old No. 3134 of 1991)

Jeet Singh S/o Devi Singh
R/o Village Bhudevpur (Siggadi)
P.S. Kotdwar, District
Pauri Garhwal .. Applicant.

Vs.

1- State of U.P.
2- Assistant Wild Life Warden,
Kotdwara Range, Kotdwar
Pauri Garhwal, U.P. ...Respondents.

Sri Vipul Sharma, learned counsel for the applicant.
Sri P.S. Soan, learned A.G.A. for the State.

Hon'ble B.C. Kandpal,J.

This petition Jeet Singh has filed this petition U/S 482 Cr.P.C. for quashing the proceedings of criminal case No. 33/L- 90-91, U/Ss 9/17/51 of the Wild Life Protection Act, 1972, pending in the Court of Chief Judicial Magistrate, Pauri Garhwal.

2- Brief facts giving rise to this petition are that the Assistant Wild Life Warde, Kotdwar Region, Kotdwar lodged a complaint against the petitioner and two others for the offences U/Ss 9/17/51 of the Wild Life Protection Act, 1972.

3- The charge sheet was submitted against the petitioner and two other persons for the aforesaid offences. The petitioner thus filed this petition for quashing the entire proceedings of the criminal case.

4- Heard learned counsel for the parties and perused the record.

5- The learned counsel for the petitioner has firstly argued that in view of the provisions of Section 55 of the Wild Life Protection Act, 1972, no other person except the Chief Wild Life Warden is authorized to file the complaint in this matter.

6- I fail to appreciate the argument advanced by the learned counsel for the petitioner, in view of the provision of Section-4 of the Wild Life Protection Act, runs as follows:-

"4. Appointment of Life Warden and other Officers:

(1) The State Government may, for the purposes of this Act, appoint,-

(a) a Chief Wild Life Warden;

(b) Wild Life Wardens; and

(c) Such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Chief Wild Life Warden shall be subject to such general or special directions, as the State Government may, from time to time, give,

(3) The Wild Life Warden and other officers and employees appointed under this section shall be subordinate to the Chief Wild Life Warden."

7- After reading the aforesaid provision, sub-section (2) of Section 5 of the Act becomes relevant, which reads as under:-

"5. (2) The Chief Wild Life Warden may, with the previous approval of the State Government by order in writing, delegate all or any of his powers and duties under this Act, except those under clause (a) of sub-section (1) of Section 11, to any other subordinate to him subject to such conditions, if any, as may be specified in the order."

8- Thus it is quite clear that the Chief Wild Life Warden with the previous approval of the State Government, may delegate the powers to any Officer subordinate to him, for filing the complaint.

9- The learned A.G.A. has invited may attention towards the Notification of the Government Dated 30-4-1976, which reveals that the powers have been delegated to other officers including the Assistant Wild Life Warden. Therefore, in view of the aforesaid notification the Assistant Wild Life Warden is also entitled to file the complaint against the petitioner.

10- Learned counsel for the petitioner has submitted that the offences U/S 9/17/51 of the Wild Life Protection Act, 1972 are not attracted in this case.

11- He has invited my attention towards the contents of the complaint in this regard.

12- Having considered the submission advanced by the learned counsel for the petitioner, I am of the view that there is no abuse of process of court in this case. The argument advanced before me relate to the factual aspect of the matter and the disputed question of fact cannot be gone into by me while exercising the jurisdiction U/S 482 Cr.P.C. Any judgment rendered by me would amount to a

premature judgment, where the evidence is still incomplete and hazy.

13- The petition lacks merit and is liable to be dismissed.

14- Accordingly the petition is dismissed. The interim order dated 6-3-1991 stands rejected.

15- However, keeping in view the fact that the matter is very old, I direct the trial court to decide the case expeditiously and without causing any further unreasonable delay.

(B.C. Kandpal, J.)

Dated: 21-08-2006
ISB